

HOUSE BILL No. 5458

January 14, 1998, Introduced by Rep. Brewer and referred to the Committee on Public Retirement.

A bill to amend 1943 PA 240, entitled "State employees' retirement act," by amending sections 21, 22, 23, 24, 25, 27, 33, and 34 (MCL 38.21, 38.22, 38.23, 38.24, 38.25, 38.27, 38.33, and 38.34), section 22 as amended by 1987 PA 57, sections 23 and 27 as amended by 1987 PA 241, and section 25 as amended by 1986 PA 1, and by adding section 35.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) ~~Subject to the provisions of sections 33 and~~
2 ~~34, upon the application of a member, or his department head, or~~
3 ~~the state personnel director, a member who becomes totally inca-~~
4 ~~pacitated for duty in the service of the state of Michigan with-~~
5 ~~out willful negligence on his part, by reason of a personal~~
6 ~~injury or disease, which the retirement board finds to have~~
7 ~~occurred as the natural and proximate result of the said member's~~

~~1 actual performance of duty in the service of the state, shall be
2 retired: Provided, The medical advisor after a medical examina-
3 tion of said member shall certify in writing that said member is
4 mentally or physically totally incapacitated for the further per-
5 formance of duty in the service of the state, and that such inca-
6 pacity will probably be permanent, and that said member should be
7 retired: And provided further, That the retirement board concurs
8 in the recommendation of the medical advisor.~~ A MEMBER WHO

9 BECOMES TOTALLY INCAPACITATED FOR THE EMPLOYMENT THAT THE MEMBER
10 WAS PERFORMING IMMEDIATELY BEFORE TERMINATING THAT EMPLOYMENT
11 BECAUSE OF THE INCAPACITY, OR FOR THE EMPLOYMENT FOR WHICH THE
12 MEMBER IS QUALIFIED BY REASON OF TRAINING OR EXPERIENCE OR BOTH,
13 IS ENTITLED TO RECEIVE A DISABILITY RETIREMENT ALLOWANCE CALCU-
14 LATED UNDER SECTION 22 OR 23, WHICHEVER APPLIES, IF THE RETIRE-
15 MENT BOARD DETERMINES THAT ALL OF THE FOLLOWING REQUIREMENTS ARE
16 MET:

17 (A) THE MEMBER IS NOT OTHERWISE ELIGIBLE TO RETIRE AND IMME-
18 DIATELY RECEIVE AN UNREDUCED RETIREMENT ALLOWANCE UNDER THIS
19 ACT.

20 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A PER-
21 SONAL INJURY OR DISEASE.

22 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
23 LIKELY TO BE PERMANENT.

24 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
25 ITY MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

26 (i) THE PERSONAL INJURY OR DISEASE OCCURRED AS THE NATURAL
27 AND PROXIMATE RESULT OF THE MEMBER'S ACTUAL PERFORMANCE OF DUTY

1 IN THE EMPLOYMENT THAT QUALIFIES HIM OR HER FOR MEMBERSHIP IN THE
2 RETIREMENT SYSTEM.

3 (ii) THE PERSONAL INJURY OR DISEASE DID NOT OCCUR AS A
4 RESULT OF THE WILLFUL NEGLIGENCE OF THE MEMBER.

5 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT
6 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S EMPLOYMENT
7 BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S PERSONAL REP-
8 RESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT HEAD, OR THE
9 STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A DISABILITY
10 RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIREMENT BOARD.
11 UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT BOARD, FOR
12 GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY RETIREMENT
13 ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF THE
14 MEMBER'S EMPLOYMENT BECAUSE OF THE INCAPACITY.

15 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
16 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-
17 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE
18 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD
19 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER
20 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
21 EVALUATION.

22 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
23 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
24 SECTION 31(1).

25 Sec. 22. Upon retirement for disability ~~—,~~ as provided in
26 section 21, a member who ~~has attained age~~ IS 60 YEARS OF AGE OR
27 OLDER shall receive a service retirement allowance ~~as provided~~

1 ~~for in~~ CALCULATED UNDER section 20. ~~Notwithstanding that he or~~
2 ~~she may~~ HOWEVER, IF THE MEMBER DOES not have ~~10~~ THE MINIMUM
3 NUMBER OF years of credited service NEEDED TO VEST IN THE RETIRE-
4 MENT SYSTEM, he or she shall be credited with ~~10 years~~ THE
5 AMOUNT of service NECESSARY TO REACH THAT AMOUNT OF CREDITED
6 SERVICE. HOWEVER, FOR AN INDIVIDUAL WHO WAS A MEMBER ON THE
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE,
8 THE DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER THIS SECTION ON
9 AND AFTER THAT DATE SHALL NOT BE LESS THAN THE DISABILITY RETIRE-
10 MENT ALLOWANCE THAT WOULD HAVE BEEN PAYABLE UNDER THIS SECTION
11 BEFORE THAT DATE.

12 Sec. 23. ~~Upon retirement for disability, as provided for~~
13 ~~in section 21, a member who has not attained age 60 years shall~~
14 ~~receive the following benefits, subject to the provisions of sec-~~
15 ~~tions 33 and 34:~~

16 (a) ~~A disability retirement allowance of 2/3 of the~~
17 ~~retirant's final average compensation, the retirement allowance~~
18 ~~to begin as of date of the retirant's disability, but not more~~
19 ~~than 6 months before the date the retirant's application for dis-~~
20 ~~ability retirement was filed with the retirement board, and not~~
21 ~~before the date the retirant's name last appeared on a state pay-~~
22 ~~roll with pay, whichever is later, and to continue to the attain-~~
23 ~~ment of age 60 years or recovery or death, whichever event shall~~
24 ~~first occur. The disability retirement allowance payable to a~~
25 ~~disability retirant shall not exceed \$6,000.00 per annum, nor be~~
26 ~~more than an amount which when added to the statutory worker's~~
27 ~~compensation benefits applicable in the retirant's case shall~~

1 ~~exceed the retirant's final compensation. The increase in the~~
2 ~~maximum amount payable under this subdivision as provided by this~~
3 ~~1987 amendatory act shall be payable to retirants on the pension~~
4 ~~payroll as of July 1, 1987.~~

5 (1) UPON RETIREMENT FOR DISABILITY AS PROVIDED IN SECTION
6 21, A MEMBER WHO IS LESS THAN 60 YEARS OLD SHALL RECEIVE A DIS-
7 ABILITY RETIREMENT ALLOWANCE CALCULATED UNDER SECTION 20(1).
8 HOWEVER, IF THE MEMBER DOES NOT HAVE THE MINIMUM NUMBER OF YEARS
9 OF CREDITED SERVICE NEEDED TO VEST IN THE RETIREMENT SYSTEM, HE
10 OR SHE SHALL BE CREDITED WITH THE AMOUNT OF SERVICE NECESSARY TO
11 REACH THAT AMOUNT OF CREDITED SERVICE. A DISABILITY RETIREMENT
12 ALLOWANCE PAYABLE UNDER THIS SUBSECTION IS PAYABLE BEGINNING ON
13 THE FIRST DAY OF THE MONTH FOLLOWING THE DATE THE MEMBER BECOMES
14 TOTALLY INCAPACITATED FOR THE EMPLOYMENT THAT QUALIFIED HIM OR
15 HER FOR MEMBERSHIP IN THE RETIREMENT SYSTEM. HOWEVER, A DISABIL-
16 ITY RETIREMENT ALLOWANCE PAYABLE UNDER THIS SUBSECTION SHALL NOT
17 BE PAID BEFORE THE FIRST DAY OF THE MONTH FOLLOWING THE LATER OF
18 THE FOLLOWING:

19 (A) SIX MONTHS BEFORE THE DATE THE APPLICATION FOR A DIS-
20 ABILITY RETIREMENT ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD
21 UNDER SECTION 21.

22 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
23 THE PAYROLL WITH PAY FOR THAT EMPLOYMENT.

24 (2) ~~(b) Upon attaining age 60 years, or July 1, 1987,~~
25 ~~whichever is later, the~~ A disability retirant UNDER
26 SUBSECTION (1) shall receive a retirement allowance ~~computed~~
27 ~~according to~~ CALCULATED UNDER section 20. ~~In computing the~~

1 FOR THE PURPOSE OF CALCULATING THAT retirant's retirement
2 allowance, the retirant shall be given membership service credit
3 for the period during which the retirant was receiving the dis-
4 ability retirement allowance provided for in ~~subdivision (a)~~
5 SUBSECTION (1). If the computation results in a retirement
6 allowance less than the disability retirement allowance provided
7 in ~~subdivision (a)~~ SUBSECTION (1), the retirant shall receive a
8 retirement allowance equal to the disability retirement
9 allowance. ~~Upon attaining age 60 years or July 1, 1987, which~~
10 ~~ever is later, the retirant may elect an option provided for in~~
11 ~~section 31(1).~~

12 (3) ~~(c)~~ During the period a disability retirant is receiv-
13 ing a disability retirement allowance ~~, as provided for in sub-~~
14 ~~division (a)~~ UNDER SUBSECTION (1), the DISABILITY retirant's
15 contributions to the employees' savings fund shall be suspended
16 and the balance in the fund, standing to the DISABILITY
17 retirant's credit as of the date the disability retirement allow-
18 ance begins, shall remain in the savings fund and shall be accu-
19 mulated at regular interest. Upon attaining age 60 years, ~~or~~
20 ~~July 1, 1987, whichever is later,~~ the DISABILITY retirant's
21 accumulated contributions shall be transferred from the
22 employees' savings fund to the pension reserve fund. If the dis-
23 ability retirant should die before attaining age 60 years, the
24 accumulated contributions standing to the DISABILITY retirant's
25 credit in the employees' savings fund shall be paid to the person
26 or persons the retirant nominated by written designation duly
27 executed and filed with the retirement board, or if there is not

1 a designated person or persons surviving, then to the retirant's
2 legal representative OR ESTATE.

3 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
4 DISABILITY RETIRANT ELECTS TO RECEIVE A REGULAR DISABILITY
5 RETIREMENT ALLOWANCE UNDER SECTION 31, THE DISABILITY RETIREMENT
6 ALLOWANCE PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION
7 SHALL NOT BE LESS THAN THE DISABILITY RETIREMENT ALLOWANCE THAT
8 WOULD HAVE BEEN PAYABLE UNDER THIS SECTION BEFORE THE EFFECTIVE
9 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. EXCEPT AS
10 OTHERWISE PROVIDED IN THIS SUBSECTION, IF A DISABILITY RETIRANT
11 ELECTS TO RECEIVE A REDUCED DISABILITY RETIREMENT ALLOWANCE UNDER
12 A PAYMENT OPTION UNDER SECTION 31, THE DISABILITY RETIREMENT
13 ALLOWANCE PAYABLE TO A DISABILITY RETIRANT UNDER THIS SECTION
14 SHALL NOT BE LESS THAN THE ACTUARIAL EQUIVALENT AT THE TIME OF
15 THE ELECTION OF THE DISABILITY RETIREMENT ALLOWANCE THAT WOULD
16 HAVE BEEN PAYABLE UNDER THIS SECTION BEFORE THE EFFECTIVE DATE OF
17 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. A DISABILITY
18 RETIREMENT ALLOWANCE FIRST PAYABLE TO A DISABILITY RETIRANT UNDER
19 THIS SECTION SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN ADDED TO
20 THE STATUTORY WORKER'S DISABILITY COMPENSATION BENEFITS PAYABLE
21 TO THE DISABILITY RETIRANT EXCEEDS THE DISABILITY RETIRANT'S
22 FINAL COMPENSATION.

23 (5) THE RECEIPT OF A DISABILITY RETIREMENT ALLOWANCE UNDER
24 THIS SECTION IS SUBJECT TO SECTIONS 33, 34, AND 35.

25 Sec. 24. (1) ~~Subject to the provisions of sections 33 and~~
26 ~~34, upon application of a member, or his department head, or the~~
27 ~~state personnel director, a member who has been a state employee~~

~~1 at least 10 years becomes totally and permanently incapacitated
2 for duty as the result of causes occurring not in the performance
3 of duty to the state, may be retired by the retirement board:~~

~~4 Provided, The medical advisor after a medical examination of such
5 member, shall certify that such member is mentally or physically
6 incapacitated for the further performance of duty, and such inca-
7 pacity is likely to be permanent and that such member should be
8 retired.~~ A MEMBER WHO BECOMES TOTALLY INCAPACITATED FOR THE

9 EMPLOYMENT THAT THE MEMBER WAS PERFORMING IMMEDIATELY BEFORE TER-
10 MINATING THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR FOR THE
11 EMPLOYMENT FOR WHICH THE MEMBER IS QUALIFIED BY REASON OF TRAIN-
12 ING OR EXPERIENCE OR BOTH, IS ENTITLED TO RECEIVE A DISABILITY
13 RETIREMENT ALLOWANCE PURSUANT TO SECTION 25 IF THE RETIREMENT
14 BOARD DETERMINES THAT ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

15 (A) THE MEMBER IS NOT OTHERWISE ELIGIBLE TO RETIRE AND IMME-
16 DIATELY RECEIVE AN UNREDUCED RETIREMENT ALLOWANCE UNDER THIS ACT,
17 BUT HAS ACCRUED AT LEAST THE MINIMUM NUMBER OF YEARS OF CREDITED
18 SERVICE NEEDED TO VEST IN THE RETIREMENT SYSTEM.

19 (B) THE MEMBER'S INCAPACITY OCCURRED AS THE RESULT OF A PER-
20 SONAL INJURY OR DISEASE.

21 (C) EXCEPT AS PROVIDED IN SECTION 35, THE INCAPACITY IS
22 LIKELY TO BE PERMANENT.

23 (D) THE PERSONAL INJURY OR DISEASE RESULTING IN THE INCAPAC-
24 ITY DID NOT OCCUR IN THE PERFORMANCE OF DUTY IN THE EMPLOYMENT
25 THAT QUALIFIED HIM OR HER FOR MEMBERSHIP IN THE RETIREMENT
26 SYSTEM.

1 (E) THE PERSONAL INJURY OR DISEASE RESULTING IN THE
2 INCAPACITY WAS NOT THE RESULT OF THE WILLFUL NEGLIGENCE OF THE
3 MEMBER.

4 (F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NOT
5 LATER THAN 1 YEAR AFTER TERMINATION OF THE MEMBER'S EMPLOYMENT
6 BECAUSE OF THE INCAPACITY, THE MEMBER, THE MEMBER'S PERSONAL REP-
7 RESENTATIVE OR GUARDIAN, THE MEMBER'S DEPARTMENT HEAD, OR THE
8 STATE PERSONNEL DIRECTOR FILES AN APPLICATION FOR A DISABILITY
9 RETIREMENT ALLOWANCE FOR THAT MEMBER WITH THE RETIREMENT BOARD.
10 UPON APPEAL TO THE RETIREMENT BOARD, THE RETIREMENT BOARD, FOR
11 GOOD CAUSE, MAY ACCEPT AN APPLICATION FOR A DISABILITY RETIREMENT
12 ALLOWANCE NOT LATER THAN 2 YEARS AFTER TERMINATION OF THE
13 MEMBER'S EMPLOYMENT BECAUSE OF THE INCAPACITY.

14 (2) BEFORE A FINAL DETERMINATION IS MADE THAT A DISABILITY
15 RETIREMENT ALLOWANCE IS PAYABLE UNDER SUBSECTION (1), THE RETIRE-
16 MENT BOARD SHALL REQUIRE A WRITTEN MEDICAL EVALUATION OF THE
17 APPLICANT PREPARED BY THE MEDICAL ADVISOR. THE RETIREMENT BOARD
18 SHALL REQUIRE THE APPLICANT TO SUBMIT SUFFICIENT MEDICAL OR OTHER
19 EVIDENCE TO ENABLE THE MEDICAL ADVISOR TO COMPLETE THE
20 EVALUATION.

21 (3) A MEMBER ENTITLED TO RECEIVE A DISABILITY RETIREMENT
22 ALLOWANCE PURSUANT TO THIS SECTION MAY ELECT AN OPTION UNDER
23 SECTION 31(1).

24 (4) UPON ATTAINING AGE 60 YEARS, A DISABILITY RETIRANT UNDER
25 SUBSECTION (1) IS CONSIDERED RETIRED UNDER THE PROVISIONS OF SEC-
26 TION 19(1) AND SHALL RECEIVE A RETIREMENT ALLOWANCE CALCULATED
27 UNDER SECTION 20.

1 Sec. 25. (1) Upon retirement for disability ~~—~~ as provided
2 in section 24, a member shall receive a retirement allowance
3 ~~computed in accordance with~~ CALCULATED UNDER section 20(1).

4 (2) THE DISABILITY RETIREMENT ALLOWANCE PAYABLE UNDER
5 SUBSECTION (1) IS PAYABLE BEGINNING ON THE FIRST DAY OF THE MONTH
6 FOLLOWING THE LATER OF EITHER OF THE FOLLOWING:

7 (A) THE DATE THE APPLICATION FOR A DISABILITY RETIREMENT
8 ALLOWANCE WAS FILED WITH THE RETIREMENT BOARD UNDER SECTION 24.

9 (B) THE DATE THE DISABILITY RETIRANT'S NAME LAST APPEARED ON
10 THE PAYROLL WITH PAY FOR THE EMPLOYMENT THAT QUALIFIED HIM OR HER
11 FOR MEMBERSHIP IN THE RETIREMENT SYSTEM.

12 (3) ~~The retirement allowance or pension provided shall not~~
13 ~~be less than \$600.00 per annum. Upon retirement, the member may~~
14 ~~elect an option provided for in section 31(1).~~ THE RECEIPT OF A
15 DISABILITY RETIREMENT ALLOWANCE UNDER THIS SECTION IS SUBJECT TO
16 SECTIONS 33, 34, AND 35.

17 Sec. 27. (1) ~~If~~ EXCEPT AS PROVIDED IN SUBSECTIONS (3),
18 (4), AND (5), IF a member dies as a result of a personal injury
19 or disease arising out of and in the course of his or her employ-
20 ment, ~~with the state, or a disability retirant who retired under~~
21 ~~section 21 dies prior to becoming age 60 and within 3 years after~~
22 ~~the member's disability retirement from the same causes for which~~
23 ~~he or she was retired, and such death or illness or injuries~~
24 WHICH EMPLOYMENT QUALIFIED HIM OR HER FOR MEMBERSHIP IN THE
25 RETIREMENT SYSTEM, AND THE PERSONAL INJURY OR DISEASE resulting
26 in death ~~are~~ IS found by the retirement board to have been the
27 sole and exclusive result of THAT employment, ~~with the state,~~

1 the ~~applicable benefits provided in subsections (2), (3), (4),~~
2 and ~~(5) shall be paid, subject to subsection (6)~~ SURVIVING
3 SPOUSE SHALL RECEIVE A RETIREMENT ALLOWANCE CALCULATED AS IF THE
4 DECEASED MEMBER HAD RETIRED EFFECTIVE THE DAY BEFORE THE DATE OF
5 DEATH, ELECTED OPTION A UNDER SECTION 31(1), AND NOMINATED HIS OR
6 HER SPOUSE AS RETIREMENT ALLOWANCE BENEFICIARY. THE RETIREMENT
7 ALLOWANCE SHALL BE CALCULATED BASED UPON THE AMOUNT OF THE
8 DECEASED MEMBER'S CREDITED SERVICE. HOWEVER, IF THE DECEASED
9 MEMBER DOES NOT HAVE THE MINIMUM NUMBER OF YEARS OF CREDITED
10 SERVICE NEEDED TO VEST IN THE RETIREMENT SYSTEM, HE OR SHE SHALL
11 BE CREDITED WITH THE AMOUNT OF SERVICE NECESSARY TO REACH THAT
12 AMOUNT OF CREDITED SERVICE.

13 (2) ~~The accumulated contributions standing to the member's~~
14 ~~account in the employees' savings fund shall be paid to such~~
15 ~~person or persons as the member has nominated by written designa-~~
16 ~~tion duly executed and filed with the retirement board, or if~~
17 ~~there are no such designated person or persons surviving, then to~~
18 ~~the member's legal representative.~~ THE RETIREMENT ALLOWANCE PAY-
19 ABLE TO A SURVIVING SPOUSE UNDER THIS SECTION ON AND AFTER THE
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE
21 SHALL NOT BE LESS THAN THE RETIREMENT ALLOWANCE THAT WOULD HAVE
22 BEEN PAYABLE UNDER THIS SECTION BEFORE THAT DATE. THE FIRST
23 RETIREMENT ALLOWANCE PAYABLE TO A SURVIVING SPOUSE UNDER SUBSEC-
24 TION (1) SHALL NOT BE MORE THAN AN AMOUNT THAT WHEN ADDED TO THE
25 STATUTORY WORKER'S DISABILITY COMPENSATION BENEFITS PAYABLE TO
26 THE SURVIVING SPOUSE OF THE DECEASED MEMBER EQUALS THE DECEASED
27 MEMBER'S FINAL COMPENSATION.

1 (3) ~~A retirement allowance of 1/3 of the final compensation~~
2 ~~of the deceased person shall be paid to the surviving spouse to~~
3 ~~whom the deceased person was married at the time he or she last~~
4 ~~terminated employment with the state. If a child or children~~
5 ~~under the age of 18 years also survives the deceased person, each~~
6 ~~such child shall receive an allowance of an equal share of 1/4 of~~
7 ~~the deceased person's final compensation. Upon the marriage,~~
8 ~~death, or attainment of age 18 years of any such child, there~~
9 ~~shall be a redistribution by the retirement board to the deceased~~
10 ~~person's remaining children under age 18 years.~~ IF THE REQUIRE-
11 MENTS OF SUBSECTION (1) ARE MET BUT THE DECEASED MEMBER IS SUR-
12 VIVED BY A SPOUSE AND A CHILD OR CHILDREN UNDER 18 YEARS OF AGE,
13 THEN THE RETIREMENT ALLOWANCE CALCULATED UNDER SUBSECTIONS (1)
14 AND (2) SHALL BE PAYABLE AS FOLLOWS:

15 (A) ONE HALF TO THE SURVIVING SPOUSE.

16 (B) ONE HALF TO THE SURVIVING CHILD OR CHILDREN UNDER 18
17 YEARS OF AGE, IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE
18 TO A SURVIVING CHILD UNDER THIS SUBSECTION SHALL TERMINATE UPON
19 THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18 YEARS OF AGE, WHICH-
20 EVER OCCURS FIRST. THAT CHILD'S SHARE OF THE TERMINATED RETIRE-
21 MENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE REMAINING CHIL-
22 DREN UNDER 18 YEARS OF AGE, IF ANY. WHEN THERE ARE NO SURVIVING
23 CHILDREN ENTITLED TO A SHARE OF THE RETIREMENT ALLOWANCE UNDER
24 THIS SUBSECTION, THE CHILDREN'S SHARE SHALL REVERT TO THE SURVIV-
25 ING SPOUSE.

26 (4) ~~If there is no surviving spouse or if the surviving~~
27 ~~spouse dies before the youngest surviving child of the deceased~~

~~1 person reaches the age of 18 years, then each such child under
2 age 18 shall each receive an allowance equal to 1/4 of the
3 deceased person's final compensation, but the total so paid in
4 any year to the children of a deceased person shall not exceed
5 1/2 of his or her final compensation. If there are more than 2
6 such surviving children under age 18 years, each such child shall
7 receive an allowance of an equal share of 1/2 of the deceased
8 person's final compensation. Upon the marriage, death, or
9 attainment of age 18 years of any such child, the child's allow-
10 ance shall terminate and there shall be a redistribution by the
11 retirement board to any remaining eligible children of the
12 deceased under age 18, but a child shall not receive an allowance
13 more than 1/4 of the deceased person's final compensation. IF
14 THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND THE DECEASED
15 MEMBER IS NOT SURVIVED BY A SPOUSE BUT IS SURVIVED BY A CHILD OR
16 CHILDREN UNDER 18 YEARS OF AGE, THEN THE RETIREMENT ALLOWANCE
17 CALCULATED UNDER SUBSECTIONS (1) AND (2) SHALL BE PAID TO THE
18 SURVIVING CHILD OR CHILDREN IN EQUAL SHARES. THE RETIREMENT
19 ALLOWANCE PAYABLE TO A SURVIVING CHILD UNDER THIS SUBSECTION
20 SHALL TERMINATE UPON THAT CHILD'S MARRIAGE, DEATH, OR BECOMING 18
21 YEARS OF AGE, WHICHEVER OCCURS FIRST. THAT CHILD'S SHARE OF THE
22 TERMINATED RETIREMENT ALLOWANCE SHALL BE REDISTRIBUTED AMONG THE
23 REMAINING CHILDREN UNDER 18 YEARS OF AGE, IF ANY.~~

~~24 (5) If there is neither a spouse nor a child under age 18
25 years surviving the deceased person, then there shall be paid to
26 each parent of the deceased person whom the retirement board
27 after investigation determines to have been actually dependent~~

1 ~~upon the deceased person through absence of earning power due to~~
2 ~~disability, an allowance of 1/6 of the deceased person's final~~
3 ~~compensation.~~ IF THE REQUIREMENTS OF SUBSECTION (1) ARE MET AND
4 THE DECEASED MEMBER IS NOT SURVIVED BY A SPOUSE OR A CHILD OR
5 CHILDREN UNDER 18 YEARS OF AGE BUT IS SURVIVED BY A PARENT OR
6 PARENTS WHO WERE DEPENDENT UPON THE DECEASED MEMBER FOR 50% OR
7 MORE OF SUPPORT, THEN THE RETIREMENT ALLOWANCE CALCULATED UNDER
8 SUBSECTIONS (1) AND (2) SHALL BE PAID TO THE SURVIVING PARENT OR
9 PARENTS IN EQUAL SHARES. THE RETIREMENT ALLOWANCE PAYABLE TO A
10 SURVIVING PARENT UNDER THIS SUBSECTION SHALL TERMINATE UPON THAT
11 PARENT'S DEATH.

12 (6) ~~The total of the retirement allowances payable under~~
13 ~~subsections (3), (4), and (5) on account of the death of a member~~
14 ~~or retirant shall not exceed \$2,400.00 per annum, nor an amount~~
15 ~~which, when added to the statutory worker's compensation benefit~~
16 ~~to which the dependents of the member or retirant are entitled,~~
17 ~~exceeds his or her final compensation.~~ A RETIREMENT ALLOWANCE
18 PAYABLE UNDER THIS SECTION TO A SURVIVING SPOUSE BEFORE THE
19 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE
20 SHALL NOT BE LESS THAN THE RETIREMENT ALLOWANCE THAT THE SPOUSE
21 WAS ENTITLED TO UNDER THIS SECTION BEFORE THAT DATE OR THE
22 RETIREMENT ALLOWANCE THAT IS PAYABLE UNDER THIS SECTION AFTER
23 THAT DATE, WHICHEVER IS GREATER. A PORTION OF A RETIREMENT
24 ALLOWANCE PAYABLE UNDER THIS SECTION TO SURVIVING CHILDREN OR
25 PARENTS BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
26 ADDED THIS SENTENCE SHALL NOT BE LESS THAN THAT PORTION OF THE
27 RETIREMENT ALLOWANCE THAT THAT CHILD OR PARENT WAS ENTITLED TO

1 UNDER THIS SECTION BEFORE THAT DATE OR THE PORTION OF THE
2 RETIREMENT ALLOWANCE THAT IS PAYABLE UNDER THIS SECTION AFTER
3 THAT DATE, WHICHEVER IS GREATER.

4 Sec. 33. (1) ~~(a) Once each year during the first 5- 6~~
5 ~~years following the retirement of a member on a disability~~
6 ~~retirement allowance, and at least once in every 3-year period~~
7 ~~thereafter~~ UNDER SECTION 21 OR 24, the retirement board may, and
8 upon the retirant's application shall, require ~~any~~ A disability
9 retirant ~~, who has not attained age~~ IS UNDER 60 years ~~,~~ OF
10 AGE to ~~undergo a medical examination; such examination to be~~
11 ~~made by or under the direction of the medical advisor at the~~
12 ~~place of residence of said retirant, or other place mutually~~
13 ~~agreed upon. Should any disability retirant, who has not~~
14 ~~attained age 60 years, refuse to submit to such medical examina-~~
15 ~~tion in any such period, his disability retirement allowance may~~
16 ~~be discontinued until his withdrawal of such refusal, and should~~
17 ~~such refusal continue for 1 year, all his rights in and to his~~
18 ~~disability retirement allowance may be revoked by the retirement~~
19 ~~board. If upon such medical examination of a disability retir-~~
20 ~~ant, the medical advisor reports and his report is concurred in~~
21 ~~by the retirement board, that the disability retirant is physi-~~
22 ~~cally able and capable of resuming employment, he shall be~~
23 ~~restored to active service with the state and his disability~~
24 ~~retirement allowance shall cease.~~ SUBMIT TO A MEDICAL EVALUATION
25 DESCRIBED IN SECTION 21(2) OR A VOCATIONAL EVALUATION DESCRIBED
26 IN SECTION 35(1), OR BOTH. THE RETIREMENT BOARD SHALL MAKE
27 REASONABLE ACCOMMODATIONS REGARDING THE LOCATION AND METHOD OF

1 THE MEDICAL OR VOCATIONAL EVALUATION TAKING INTO CONSIDERATION
2 THE LOCATION AND HEALTH OF THE DISABILITY RETIRANT. THE RETIRE-
3 MENT BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PARTICIPATE
4 IN A PROGRAM OF VOCATIONAL REHABILITATION IN THE MANNER PROVIDED
5 IN SECTION 35. IF A DISABILITY RETIRANT WHO IS UNDER 60 YEARS OF
6 AGE REFUSES TO SUBMIT TO THE EVALUATION OR EVALUATIONS REQUIRED
7 BY THE RETIREMENT BOARD UNDER THIS SECTION, HIS OR HER DISABILITY
8 RETIREMENT ALLOWANCE MAY BE DISCONTINUED UNTIL THE DISABILITY
9 RETIRANT SUBMITS TO THE REQUIRED EVALUATION OR EVALUATIONS. IF
10 THE REFUSAL CONTINUES FOR 1 YEAR, ALL OF THE DISABILITY
11 RETIRANT'S RIGHTS IN AND TO A DISABILITY RETIREMENT ALLOWANCE MAY
12 BE REVOKED BY THE RETIREMENT BOARD.

13 (2) THE RETIREMENT BOARD MAY PAY FROM THE FUNDS OF THE
14 RETIREMENT SYSTEM THE COST OF PARTICIPATION BY A DISABILITY
15 RETIRANT IN A PROGRAM OF VOCATIONAL REHABILITATION OR A RETURN TO
16 WORK PROGRAM ADMINISTERED BY THIS STATE IF THE AMOUNT PAYABLE FOR
17 PARTICIPATION IN THE PROGRAM PLUS THE AMOUNT OF A DIFFERENTIAL
18 PAYMENT PAYABLE UNDER SECTION 35(5), IF ANY, IS LESS THAN THE
19 PROJECTED BENEFIT TOTAL. AS USED IN THIS SUBSECTION, "PROJECTED
20 BENEFIT TOTAL" MEANS THE DIFFERENCE BETWEEN 60 AND THE DISABILITY
21 RETIRANT'S AGE AT HIS OR HER PROJECTED REEMPLOYMENT DATE MULTI-
22 PLIED BY THE ANNUAL DISABILITY BENEFIT PAYABLE TO THE DISABILITY
23 RETIRANT.

24 (3) IF THE RETIREMENT BOARD DETERMINES THAT A DISABILITY
25 RETIRANT IS NO LONGER INCAPACITATED FOR THE EMPLOYMENT THAT THE
26 DISABILITY RETIRANT WAS PERFORMING IMMEDIATELY BEFORE TERMINATING
27 THAT EMPLOYMENT BECAUSE OF THE INCAPACITY, OR FOR THE EMPLOYMENT

1 FOR WHICH THE DISABILITY RETIRANT IS QUALIFIED BY REASON OF
2 TRAINING OR EXPERIENCE OR BOTH, THE RETIREMENT BOARD SHALL RECOM-
3 MEND THAT THE DISABILITY RETIRANT BE REEMPLOYED. THE RETIREMENT
4 SYSTEM SHALL CONTINUE TO PAY A DISABILITY RETIREMENT ALLOWANCE TO
5 A DISABILITY RETIRANT UNTIL HE OR SHE IS REEMPLOYED, SUBJECT TO
6 SUBSECTION (4).

7 (4) ~~(b) Should~~ IF the secretary ~~report and certify~~
8 REPORTS AND CERTIFIES to the retirement board that ~~such~~ A dis-
9 ability ~~beneficiary~~ RETIRANT is engaged in ~~a~~ gainful occupa-
10 tion paying more than the difference between his OR HER disabil-
11 ity retirement allowance and his OR HER ADJUSTED final compensa-
12 tion, and ~~should~~ IF the retirement board ~~concur in such~~
13 CONCURS IN THE report, then the amount of ~~his~~ THE DISABILITY
14 retirement allowance shall be reduced to an amount ~~which~~ THAT
15 together with the amount earned by ~~him shall equal~~ THE DISABIL-
16 ITY RETIRANT EQUALS his OR HER ADJUSTED final compensation.
17 ~~Should~~ IF the earnings of ~~such~~ THE disability retirant ~~be~~
18 ~~later changed~~ CHANGE, the amount of his OR HER retirement allow-
19 ance shall ~~be further modified in like manner~~ AGAIN BE ADJUSTED
20 UNDER THIS SECTION. AS USED IN THIS SUBSECTION, "ADJUSTED FINAL
21 COMPENSATION" MEANS THE DISABILITY RETIRANT'S FINAL COMPENSATION
22 PLUS A 1-STEP INCREASE AT THAT CLASSIFICATION, IF ANY, WHICH
23 AMOUNT IS THEN INCREASED BY 3% COMPOUNDED ANNUALLY FOR EACH YEAR
24 OR MAJOR PORTION OF A YEAR THAT EXPIRES AFTER THE DISABILITY
25 RETIREMENT EFFECTIVE DATE AND THE DATE OF THE CALCULATION UNDER
26 THIS SUBSECTION.

1 Sec. 34. A disability retirant who has been or ~~shall be~~
2 IS reinstated in active service ~~, as provided in section 33,~~
3 ~~shall from~~ UNDER SECTION 33 OR 35 AGAIN BECOMES A MEMBER BEGIN-
4 NING ON the date of ~~such~~ THE reinstatement. ~~again become a~~
5 ~~member of the retirement system.~~ Upon reinstatement of ~~such~~
6 THE disability retirant to active service, any balance ~~he may~~
7 ~~have~~ STANDING TO HIS OR HER CREDIT in the pension reserve fund
8 at the time of ~~such~~ THE reinstatement ~~to active service,~~
9 shall be transferred from the pension reserve fund to the
10 employees' savings fund and credited to his OR HER individual
11 account in the employees' savings fund. Any service ~~, on the~~
12 ~~basis of which his retirement allowance was computed at the time~~
13 ~~of his retirement,~~ CREDIT ACCRUED BY THE REINSTATED DISABILITY
14 RETIRANT BEFORE DISABILITY RETIREMENT shall be restored to full
15 force and effect, and, except in the case of retirement for
16 ~~non-duty~~ NONDUTY disability ~~as provided in~~ UNDER section 24,
17 ~~he~~ THE DISABILITY RETIRANT shall be given service credit for
18 the period of time ~~he was out of service due to such disability~~
19 A DISABILITY RETIREMENT ALLOWANCE WAS PAID.

20 SEC. 35. (1) BEFORE A FINAL DETERMINATION IS MADE THAT A
21 MEMBER IS TOTALLY INCAPACITATED FOR EMPLOYMENT UNDER SECTION 21
22 OR 24 AND THAT A DISABILITY RETIREMENT ALLOWANCE IS PAYABLE UNDER
23 SECTION 23 OR 25, THE RETIREMENT BOARD MAY REQUIRE THAT A WRITTEN
24 VOCATIONAL EVALUATION OF THE DISABILITY APPLICANT BE PREPARED BY
25 A REHABILITATION AGENCY. THE EVALUATION SHALL CONTAIN ALL OF THE
26 FOLLOWING:

1 (A) A DESCRIPTION OF THE DISABILITY APPLICANT'S VOCATIONAL
2 LIMITATIONS, IF ANY, RESULTING FROM THE PERSONAL INJURY OR
3 DISEASE THAT IS THE BASIS OF THE CLAIMED INCAPACITY.

4 (B) A DESCRIPTION OF THE DISABILITY APPLICANT'S POTENTIAL,
5 IF ANY, FOR VOCATIONAL REHABILITATION.

6 (C) A RECOMMENDATION REGARDING A PROGRAM OF VOCATIONAL REHA-
7 BILITATION OF THE DISABILITY APPLICANT, IF APPLICABLE.

8 (2) IF THE RETIREMENT BOARD DETERMINES THAT THE APPLICANT IS
9 OTHERWISE QUALIFIED FOR A DISABILITY RETIREMENT ALLOWANCE UNDER
10 SECTIONS 21 AND 23 OR SECTIONS 24 AND 25, BUT THAT THE POTENTIAL
11 EXISTS FOR THE VOCATIONAL REHABILITATION OF THE DISABILITY APPLI-
12 CANT FOR REASONABLE EMPLOYMENT COMPATIBLE WITH THE DISABILITY
13 APPLICANT'S MENTAL AND PHYSICAL CONDITION, THE DISABILITY APPLI-
14 CANT SHALL BE RETIRED UNDER THE APPLICABLE SECTIONS. THE RETIRE-
15 MENT BOARD MAY RECOMMEND THAT THE DISABILITY RETIRANT PARTICIPATE
16 IN GOOD FAITH IN A REASONABLE PROGRAM OF VOCATIONAL REHABILITA-
17 TION OR A RETURN TO WORK PROGRAM ADMINISTERED BY THIS STATE.

18 (3) THE AGENCY PROVIDING A PROGRAM OF VOCATIONAL REHABILITA-
19 TION OR RETURN TO WORK PROGRAM SHALL REPORT TO THE RETIREMENT
20 BOARD ON A PERIODIC BASIS, AS REQUIRED BY THE RETIREMENT BOARD,
21 REGARDING THE PROGRESS OF THE DISABILITY RETIRANT WHO PARTICI-
22 PATES IN A PROGRAM OF VOCATIONAL REHABILITATION OR RETURN TO WORK
23 PROGRAM UNDER SUBSECTION (2). IF THE RETIREMENT BOARD DETERMINES
24 THAT THE DISABILITY RETIRANT IS NO LONGER INCAPACITATED FOR THE
25 EMPLOYMENT THAT HE OR SHE WAS PERFORMING IMMEDIATELY BEFORE TER-
26 MINATION OF THAT EMPLOYMENT BECAUSE OF THE INCAPACITY OR FOR THE
27 EMPLOYMENT FOR WHICH HE OR SHE IS QUALIFIED BY REASON OF TRAINING

1 OR EXPERIENCE OR BOTH, THE DISABILITY RETIRANT SHALL BE
2 CONSIDERED REHABILITATED.

3 (4) THE RETIREMENT BOARD SHALL RECOMMEND THAT THIS STATE
4 OFFER REASONABLE EMPLOYMENT TO THE DISABILITY RETIRANT WHO IS
5 CONSIDERED REHABILITATED UNDER SUBSECTION (3). THE REASONABLE
6 EMPLOYMENT OFFERED TO THE REHABILITATED DISABILITY RETIRANT SHALL
7 BE COMPATIBLE WITH THE REHABILITATED DISABILITY RETIRANT'S MENTAL
8 AND PHYSICAL CONDITION.

9 (5) A REHABILITATED DISABILITY RETIRANT WHO ACCEPTS REASON-
10 ABLE EMPLOYMENT UNDER SUBSECTION (4) IS NOT ENTITLED TO RECEIVE A
11 DISABILITY RETIREMENT ALLOWANCE UNDER SECTIONS 21 AND 23 OR SEC-
12 TIONS 24 AND 25. THE RETIREMENT SYSTEM SHALL CEASE PAYING THE
13 DISABILITY RETIREMENT ALLOWANCE TO THE REHABILITATED DISABILITY
14 RETIRANT EFFECTIVE UPON THE BEGINNING DATE OF THE ACCEPTED
15 EMPLOYMENT. HOWEVER, IF THE REHABILITATED DISABILITY RETIRANT
16 ACCEPTS THE OFFERED EMPLOYMENT, RESUMES EMPLOYMENT UNDER THIS
17 SUBSECTION, AND THE COMPENSATION PAYABLE FOR THAT EMPLOYMENT IS
18 LESS THAN THE REHABILITATED DISABILITY RETIRANT'S ADJUSTED FINAL
19 COMPENSATION, THEN THE RETIREMENT SYSTEM SHALL PAY TO THE REHA-
20 BILITATED DISABILITY RETIRANT A DIFFERENTIAL PAYMENT EQUAL TO THE
21 DIFFERENCE, IF ANY, BETWEEN THE AMOUNT OF COMPENSATION PAYABLE
22 FOR THE ACCEPTED EMPLOYMENT AND ADJUSTED FINAL COMPENSATION.
23 HOWEVER, THE DIFFERENTIAL PAYMENT SHALL NOT EXCEED AN AMOUNT CAL-
24 CULATED UNDER SECTION 23 OR 25, WHICHEVER APPLIES. AS USED IN
25 THIS SUBSECTION, "ADJUSTED FINAL COMPENSATION" MEANS THE DISABIL-
26 ITY RETIRANT'S FINAL COMPENSATION PLUS A 1-STEP INCREASE AT THAT
27 CLASSIFICATION, IF ANY, WHICH AMOUNT IS THEN INCREASED BY 3%

1 COMPOUNDED ANNUALLY FOR EACH YEAR OR MAJOR PORTION OF A YEAR THAT
2 EXPIRES AFTER THE DISABILITY RETIREMENT EFFECTIVE DATE AND THE
3 DATE OF THE CALCULATION UNDER THIS SUBSECTION.

4 (6) IF THE RETIREMENT BOARD, WITHIN 6 MONTHS AFTER A REHA-
5 BILITATED DISABILITY RETIRANT RESUMES EMPLOYMENT UNDER SUBSECTION
6 (5), DETERMINES THAT THE REHABILITATED DISABILITY RETIRANT CON-
7 TINUES TO BE TOTALLY INCAPACITATED FOR EMPLOYMENT UNDER SECTION
8 21 OR 24, THE RETIREMENT BOARD MAY WAIVE ALL OR A PORTION OF THE
9 APPLICATION REQUIREMENTS UNDER SECTION 21 OR 24.